



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,931	01/26/2001	John H. Schneider	00.05.12.1	8223

7590 05/12/2003

THOMAS R. WEAVER
ATTORNEY-AT-LAW
P.O. BOX 1405
DUNCAN, OK 73534

EXAMINER

YU, GINA C

ART UNIT	PAPER NUMBER
----------	--------------

1617

DATE MAILED: 05/12/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,931

Applicant(s)

SCHNEIDER ET AL.

Examiner

Gina C. Yu

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-30 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) 29, 32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-28, 30, 34, and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Receipt is acknowledged of Response to Final Rejection filed on April 24, 2003.

The finality of the Office action dated March 25, 2003 is withdrawn in view of applicants' remarks. New rejections are made in view of further search and consideration.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 16, 17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al. (US 5741433) ("Mitchell") in view of Vijayendran et al. (US 5173526) ("Vijayendran").

Mitchell teaches a controlled-release supplement coolant additive ("SCA") comprising a core containing the supplement coolant additive active component and a polymeric coating material encapsulating said core. See abstract; col. 3, lines 35 – 60. The reference teaches that the basic mechanism is that the pellet or table active diffuses through the polymeric coating material when water or water vapor from the outside the membrane wall penetrates through the polymeric coating and dissolve the water-soluble SCA encapsulated therein. See col. 5, lines 36 - 62. The reference further states, "a polymeric coating material having good moisture barrier properties greatly reduces the rate of dissolution of the SCA composition core, thereby providing more constant controlled release." See col. 5, line 63 – col. 6, line 2. The reference also teaches that water-insoluble film-forming polymers are suitable for the coating material. See col. 6, lines 2 – 5. See also the coating polymers tested in Tables 2 and

Art Unit: 1617

3 and the discussion in col. 1, line 1 – col. 8, line 25. For the SCA composition, the reference teaches alkali metal salts, borates, and sulphonates. See col. 3, line 60 – col. 4, line 16; instant claim 17. While the reference teaches the SCA may be in form of solid, granular or particulate form, having size of from about 1/32-3 inches. See col. 4, line 59 – col. 5, line 8. See instant claim 21.

Mitchell fails to teach polyurethane/vinyl hybrid polymer as used in the instant invention.

Vijayendran teaches that the polyurethane/vinyl hybrid polymer recited in the instant claims is a well-known protective coating material. See col. 1, lines 11 – 42; col. 9, line 9 – col. 11, line 34. The application of the polymer is taught in col. 6, lines 32 – 41. Examiner notes that the limitation following “prepared by” ending at “thereby form a urethane/vinyl hybrid polymer” is a process, which will not be given patentable weight in this product claim. See MPEP § 2113.

Given the general teaching in Mitchell that it is well known in the art to employ water-insoluble film-forming polymers having moisture barrier property to produce an encapsulated pellet or tablet having a water permeable membrane to reduce the rate of the release of the active ingredient, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have looked to the prior art such as Vijayendran for specific water-insoluble film forming polymers to produce a similar product with constant release of the active ingredient in aqueous environment.

Art Unit: 1617

2. Claims 18, 20, 23, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell and Vijayendran as applied to claims 16, 17, and 21 as applied above, and further in view of Walles et al. (US 4756844) ("Walles").

Mitchell and Vijayendran, discussed above, fails to teach using the second materials in the encapsulation as recited in the instant claims.

Walles teaches controlled-release composition having a water permeable membrane comprising submicron particles (anticoalescent agents), which encapsulate a liquid or solid active agent. See abstract. Aqueous colloidal silica is a preferred anticoalescent agent. See col. 5, line 44 – col. 7, line 17. The advantage of using anticoalescent to the membranes include the uniformity of the thickness of the membrane and reducing the amount of the membrane needed, reducing the time to form the membrane and agglomeration of the membrane material. See col. 6, line 55 – col. 7, line 17.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the encapsulated composition in the combined references by adding anticoalescent agents such as silica as motivated by Walles because of the expectation of successfully producing encapsulated materials with uniform membrane thickness, elimination of agglomeration of the membrane materials, and reduced amount and time of the coating material necessary to form the membrane.

3. Claims 19, 22, 24-28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell, Vijayendran, and Walles, as applied to claims 16-18, 20, 21,

23, 34, and 35 as applied above, and further in view of Garcia et al. (US 6436540 B1) ("Garcia").

While Vijayendran teaches the addition of crosslinking agents, the combined references fail to teach using polyaziridines.

Garcia teaches that polyaziridines are conventionally used in crosslinking polyurethane/polyvinyl hybrid polymers. See Examples 1-4 and Table 1.

It is prima facie obvious to substitute equivalents for same purposes so long as the equivalency is recognized in the prior arts. See MPEP § 2144.06.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the composition of the combined references by substituting the crosslinking agents there with another conventionally used crosslinking agent polyaziridines, as suggested by Garcia, because of the expectation of successfully producing a composition of similar effects.

Claim Objections

Claims 16 and 22 are objected to because of the following informalities: In claim 16, line 11, inserting "which is" following "composition" and before "not" is suggested. In claim 22, line 2, inserting "of" between "consisting" and "polyaziridines" to comply with the Markush language format is suggested.

Response to Arguments

Applicant's arguments with respect to claims 16-28, 34, and 35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusi n


No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-308-3951.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 703-305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu
Patent Examiner
May 9, 2003


SREENI PADMANABHAN
PRIMARY EXAMINER
5/9/03